IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 33423 of 2006(D)

PETITIONER:

P.S. VENUGOPAL,
48/256, ELAMAKKARA P.O., ERNAKULAM.

BY ADV. SRI.P.BABU KUMAR

RESPONDENTS:

1. SPECIAL SALE OFFICER,
ERNAKULAM DIST. CO-OPERATIVE BANK, ERNAKULAM-30.

2. ERNAKULAM DIST.CO-OPERATIVE BANK,
REP. BY ITS BRANCH MANAGER, KALOOR.

BY ADV. SRI.P.V.SURENDRANATH
BY GOVT. PLEADER SRI.P.M.RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1 True photocopy of the plaint filed by the second respondent dated 3.6.2002.

Ext.P2 True photocopy of the demand notice issued by the first respondent dated 1.12.2006.

Ext.P3 True photocopy of the notice of the Adalath issued by the second respondent dated 17.12.2006.

RESPONDENT'S EXHIBITS:

NIL

//true copy//

P.S. to Judge.

J.M. JAMES, J.

W.P.(C) No. 33423 of 2006

Dated this the 2nd February, 2007.

J U D G M E N T

The writ petitioner had availed a loan of Rs.50,000/= from the second respondent. He had defaulted the repayment of the same. Therefore, proceedings had been iniaited against him, and an award was also passed fixing the amount due to the second respondent Bank, as per A.R.C.No. 125/2003. As there was no repayment made, and the petitioner did not participate in the Adalath scheduled on different dates, the second respondent issued Ext.P2 demand notice, dated 1.12.2006. The learned counsel for the writ petitioner submits that he was sick, and his wife participated and represented him before the Adalath Officer. For want of proper consent from the officials of the second respondent, no further action had been taken.

2. However, the learned counsel appearing for the second respondent vehemently denies the above submissions, and argues that despite repeated issuance of the notice to appear before the Adalath Officer, neither the writ petitioner nor his wife appeared. Therefore, the counsel opposes granting of any relief to the writ

petitioner. He further submits that an one time settlement facility, as available under Circular No.59/2006, dated 30.11.2006, is not applicable to the second respondent, and, therefore, the writ petitioner is not entitled for the same. However, the counsel brought to my notice that there is another scheme, under which the interest rate is reduced and amount due to the second respondent could be re-fixed.

3. In the above facts situation, I direct the writ petitioner or his authorised representative, to appear before the second respondent, within two weeks from today and file a representation for settlement of the matter, as per the scheme that is applicable to the second respondent in granting relief to the defaulted loanees. The writ petitioner shall also remit an amount of Rs.5000/= to the second respondent within the above period of two weeks.

4. On receipt of the same, the second respondent shall hear the writ petitioner or his authorised agent, and grant the instalment facilities, after extending the relaxation of interest and other benefits, if any available, as per the law.

5. Till a decision is taken on the representation that would be filed by the writ petitioner, as above, there shall not be any coercive action against the writ petitioner. Ext.P2 demand notice and consequent action shall be kept in abeyance accordingly.

The writ petition is disposed of as above.

J.M. JAMES,
JUDGE

nj.